

Eminent Domain

Overview

Carlton Fields advises property owners and governmental entities on all aspects of the eminent domain process, including necessary litigation in all state and federal courts.

Pre-Suit Negotiation. Carlton Fields assists during the pre-litigation negotiation between the property owner and the governmental entity that precedes all eminent domain cases. Frequently, we help clients resolve these matters before litigation, maximizing value for the property owner and meeting the needs of the governmental entity.

Eminent Domain Litigation. If the matter is not resolved prior to litigation, we address entitlement and compensation issues during the judicial process. Compensation often includes the value of the property acquired, as well as severance damages (for partial takings) and business damages (when a business' operation is adversely affected). We often address additional issues associated with condemnation, including nonmonetary benefits, such as improved access, more advantageous zoning, realignment of roadways, and other property enhancements.

Inverse Condemnation. Carlton Fields represents clients in inverse condemnation lawsuits, which involve property rights "taken" by governmental action, where the governmental authority does not formally offer the property owner compensation for the taking, as in eminent domain proceedings. These governmental actions may include "downzoning," significantly restricting or obstructing access, flooding, or regulatory takings. In inverse condemnation matters, the property owner is required to initiate litigation in an attempt to have the court rule that the governmental action has in fact resulted in a "taking." If the court finds that a taking occurred, the property owner may seek compensation for the taking.

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